IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 256 of 2004

SMT. RAMU DEVI
V/S
LR'S OF JAGDISH PRASAD

Mr. MOTI SINGH for Mr. PS RATHORE, for the appellant / petitioner

Mr. SURESH SHRIMALI, for the respondent

Date of Order : 6.7.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

The impugned decree is decree for eviction passed by the learned lower Appellate Court way back on 10.5.2004. The appeal was filed on 12.8.2004, and vide order dt. 17.8.2004 only show cause notice was issued. The respondents entered appearance way back in January, 2005 itself. Since, then the matter is simply being adjourned for one reason or the other. Today learned counsel for the respondents informs that the respondents have already taken possession of the premises more than an year ago.

Be that as it may, I have heard learned counsel for the parties on merits, and have perused the record of the learned courts below. A perusal of the record shows that the premises in question is a very small shop measuring 5 x 5 ft. Eviction whereof has been ordered on

the ground of reasonable and bonafide necessity of the plaintiff's son Pankaj. It is a different story that it has also been found by the learned lower Appellate Court that the original tenant Shri Rajendra Kumar had already expired, and it is not established that at the time of death the appellant was carrying on business. Though may be that after the death of original tenant the appellant started business, and continued but that does entitle her to get the benefits of Rent Control Act.

After perusing the record, and even going through the entire evidence of both the parties, I am satisfied that the findings recorded by the learned courts below are not vitiated on any of the grounds available under Section 100 C.P.C. The appeal thus does not involve any substantial question of law, and the same is, therefore, dismissed.

(N P GUPTA),J.

/Sushil/